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Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: September 7, 2006

Approved

Kay Winer

Date

9/12/06

COUNCIL DISTRICT: Citywide

INFORMATION

SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTORS OF HOUSING AND FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF APRIL 1, 2006 THROUGH JUNE 30, 2006

EXECUTIVE SUMMARY

This report details actions taken under the City Council's delegation of authority to the Directors of Housing and Finance for the fourth quarter of Fiscal Year 2005-06. During this quarter, modifications to eleven (11) existing loans and grants were made; eighty-one (81) new loans and grants were made; and, one (1) TEFRA hearing was conducted.

BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of April 1, 2006 through June 30, 2006.

ANALYSIS

The Delegation of Authority ("DOA") Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or to grant Housing and Homeless funds, Predevelopment funds, and Housing Rehabilitation Program funds; to negotiate and to execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

ACTIONS TAKEN BY THE DIRECTORS OF HOUSING AND FINANCE

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of April 1, 2006 through June 30, 2006:

Modifications to Council-approved Loan Terms & Conditions:

Branham Lane Apartments, L.P. – District: 2 - SNI: N/A:

On October 25, 2005, the Director of Housing approved the specific business terms of an increase to the City Loan amount for the Oak Tree Village Apartments in the amount of \$47,700, for the purpose of providing funds for additional landscaping. The additional landscaping costs were ultimately covered by unused construction contingency; therefore, there was no action taken from the approved City loan increase, which was reported in the Quarterly DOA Report for period, September 1, 2005 through December 31, 2005.

Write-off of a Mobilehome Rehabilitation Loan:

On September 30, 1993, the City of San José made a deferred payment loan in the amount of \$11,861 to Pedro L. Perez for the rehabilitation of his mobilehome located at 555 Umbarger Road, Space #37. The City's lien was in second position. On July 25, 1997, the City received a notice of unpaid back rent and abandonment from San José Verde Mobile Home Park. On

January 7, 1998, New Horizon made a new offer to purchase the coach for \$8,250 with the condition that the city would pay the past due space rent through the end of January. On February 2, 1998, the City paid \$3,209 to satisfy past due rents.

New Horizon purchased the mobilehome from the individual holding the first lien for the amount of \$3,900. The City then released its junior lien. Since the mobilehome was removed from the park and destroyed, and the whereabouts of the original borrower is unknown, reasonable efforts to collect on the loan have not been successful, and the City's loan is no longer secured by collateral. Therefore, on April 5, 2006, the Director of Housing approved the write-off of the \$11,861 mobilehome repair loan, plus \$5,091.19 of accrued and unpaid interest as of April 1, 2006.

Foreclosure Initiation Proceedings on a Rehabilitation Loan:

On April 6, 1990, the City of San José made a deferred loan in the amount of \$32,293 to José M. Navarro for the rehabilitation of his single-family residence located at 145 Hawthorne Way. On March 18, 2003, the City was notified by an attorney for Mr. Navarro's estate that the borrower was deceased and that Mr. Omar Navarro had been named as special administrator of the estate through probate. The attorney forwarded the funds to bring the account current at that time, and continued to make payments through August 2004, by which time the loan was 18 payments in arrears. After the City sent two demand letters with no response in 2005, on March 15, 2006, the City informed Mr. Omar Navarro and his attorney of the intention to proceed with foreclosure if they did not respond within 24 hours. Mr. Navarro called in and committed to staff to address the default situation, but has not done so. Because the borrower was unresponsive, staff recommended that the matter be submitted to Standard Trust Deed Service Company to act as the City's agent in a foreclosure proceeding. As of April 1, 2006, the outstanding principal balance was \$19,528.81, accrued and unpaid interest was \$1,319.30, plus accumulated late charges of \$173.34. The City's loan is a first mortgage loan; however, there are delinquent property taxes due on the property that will take payoff precedence over the City's first lien position. This property is not subject to affordability restrictions.

On April 5, 2006, the Director of Housing approved the initiation of foreclosure proceedings on the Housing Rehabilitation loan to Jose Navarro.

Conversion of an Emergency Repair Loan to a Grant:

On February 24, 1993, the City of San José made a loan in the amount of \$6,800 to Mary J. Fox for emergency repairs to her mobilehome located at 2600 Senter Road, Space #208. Ms. Fox's loan is currently ten months in arrears, Ms. Fox is disabled, and her income is in the Extremely-Low category at 15% of Area Median Income. She states that she is financially unable to meet the monthly obligation of her loan payment.

Mr. Fox presently has a mobilehome grant request in process for additional rehabilitation needed for her mobilehome. The Department approved a \$15,000 grant for this purpose on March 16, 2006. Staff recommended the \$980.03 still owed on her loan be deducted from the recently

approved grant with the net amount to be utilized for the proposed new repairs. Given the circumstances, it was determined that it would be futile, as well as inconsistent with the City's goals, to continue to pursue collection efforts with Ms. Fox for the past due monthly loan payments. Staff therefore recommended conversion of the amount owed on the loan into a grant. On April 17, 2006, the Director of Housing approved staff's recommendation to convert the emergency repair loan to Mary J. Fox to a grant.

Conversion of an Emergency Repair Loan to a Grant:

On January 15, 1993, the City of San José made a loan in the amount of \$4,450 to Ina Gay Trask for emergency repairs to her mobilehome located at 3637 Snell Avenue, Space #258. Ms. Trask's loan No. 18051 matured on February 1, 2003. On March 9, 2006, the City sent a demand for payment in full to Ms. Trask. Ms. Trask's son called the City to advise that Ms. Trask had no means with which to pay the loan and that Ms. Trask's income is solely derived from Social Security. It is apparent from the documentation received that she is financially unable to satisfy the City's loan. For these reasons, Staff recommended converting the loan to a grant. On April 17, 2006, the Director of Housing approved the conversion of Ms. Ina Gay Trask's loan in the amount of \$3,950 plus the accrued and unpaid interest amount of \$1,576.17 to a grant.

Sunset Square Apartments – District: 5 – SNI: NA

On January 15, 2002, the City Council adopted a resolution authorizing the Director of Housing to file an application with the California Debt Limit Allocation Committee (CDLAC) for an allocation of up to \$12,000,000 in private activity bonds to acquire and rehabilitate the Sunset Square Apartments. Due to difficulty in achieving projected rents, the borrower is currently restructuring the project's debt and is unable to pay semi-annual bond administration fees. On April 26, 2006, the Director of Housing approved a deferral for two years (four semi-annual payments) of the annual bond administration fees required by Section 19 of the Regulatory Agreement and Declaration of Restrictive Covenants by and among the City of San José and Sunset Square, L.P. Sunset Square, L.P. will make double payments during 2007 and 2008 in order to satisfy payments deferred in 2005 and 2006.

Curtner Gardens Associates – District: 6 - SNI: N/A

In 1995 the City made a 30-year, fully amortized permanent loan to Curtner Gardens Associates for the Curtner Gardens SRO project in the amount of \$2,648,300. The project made its monthly payment through September 2003; however, in the 29-month period between October 2003 and February 2006, the project made no loan payments to the City. On May 22, 2006, the Director of Housing approved the following amendments to the loan terms, to be documented:

- Borrower will make an immediate \$75,000 payment at the time of signing the loan amendments.
- Borrower will continue to make its already scheduled monthly payments of \$14,825.85 as called for in the note dated January 13, 1995.

- In addition to making scheduled payments, Borrower will be obligated annually to pay 70% of its available net cash flow, beginning with its fiscal year-end of December 31, 2006 and payable May 1, 2007, until the arrearage is paid in full or by July 1, 2010, whichever comes first.

To avoid having a balloon payment due upon loan maturity in 2005, staff also recommended that JSM, the partnership general partner, be offered a revised amortization schedule with higher monthly payments once the arrearage is paid off.

All other terms and conditions remain unchanged.

Bid at Foreclosure Sale for Property at 6995 Rodling Drive, Unit A:

On April 4, 2003, the Housing Department made a zero-percent (0%) interest, \$40,000 Teacher Homebuyer Loan to Ryan McDonald and Gerardo Anaya for the purchase of a townhouse located at 6995 Rodling Drive, Unit A. The City's loan is junior to a \$333,750 first mortgage loan from Long Beach Mortgage Company and is senior to a \$6,500 loan from the Housing Trust of Santa Clara County. On February 27, 2006, the senior lender's substitute Trustee filed a Notice of Default. On June 1, 2006, the substitute Trustee filed a Notice of Trustee's Sale, originally to be conducted on June 19, 2006 and rescheduled for August 24, 2006. On June 12, 2006, the Director of Housing approved City staff to bid \$435,000 at the August 24, 2006 foreclosure auction for the Rodling Drive townhouse. This amount equaled all debt secured by the property, which would enable the City to recover its outstanding principal balance plus equity share, thus protecting the City's investment.

All other terms and conditions remain unchanged.

Subordination of the City's Loan to Huff Gardens Associates:

In 1997, the City made a loan of \$989,181 to Huff Gardens Associates for the development of Huff Avenue Apartments, a 72-unit complex affordable to low- and very low-income families. On June 21, 2006, the Director of Housing approved the subordination of the City's loan to a new first mortgage loan from ARCS Commercial Mortgage in the amount of \$4,095,000 to enable the sponsor to pay off the existing debt and to fund various repair and replacement needs. The refinancing of the 1st mortgage should allow the project to generate net cash flow from which the City Loan can be repaid.

All other terms and conditions remain unchanged.

Cinnabar Commons, L.P. - District: 6 - SNI: N/A

The City Council has approved several actions for the Cinnabar Commons Apartments, a 245-unit family development. On October 8, 2002, the City Council adopted a resolution to approve a land acquisition loan of up to \$12,300,000 to Seven Hills Properties ("Sponsor"). On November 19, 2002, the City Council adopted a resolution to approve a predevelopment loan of

up to \$2,404,750 to Cinnabar Commons, L.P. On January 14, 2003, the City Council approved a construction loan of up to \$14,046,000 to Cinnabar Commons, L.P.

On June 26, 2006, the Director of Housing approved the transfer of the indebtedness and ownership to the newly-formed 501(c)(3) nonprofit affiliate of BRIDGE Housing to be admitted as the managing general partner of the newly-formed partnership/borrower, Cinnabar Commons II, L.P. The admission of the new managing general partner and property owner conforms with the terms and conditions agreed upon under the Settlement Agreement and Mutual Waiver and Release dated September 28, 2004 by and among Cinnabar Commons, L.P., Lenzen Associates, LLC, and the City.

All other terms and conditions remain unchanged.

Loans/Grants Terms and Conditions:

None this period.

Housing Rehabilitation and Improvement Loans and Grants Approved:

<u>ACTIVITY</u>	<u>NUMBER</u>	<u>AMOUNT</u>
REHABILITATION LOANS	9	\$352,500
REHABILITATION GRANTS	64	\$952,504
ENERGY GRANTS (stand-alone)	8	\$25,500
TOTAL:	81	\$1,330,504

Predevelopment Loans:

None this period.

TEFRA Hearings Conducted by the Director of Finance:

During this reporting period, the Director of Finance held a TEFRA hearing on behalf of the California Statewide Communities Development Authority ("CSCDA") for the Lexington Apartments and Regency Apartments Developments. The hearing for both of the developments was held on April 3, 2006 for an amount not to exceed \$17,000,000 for the Lexington Apartments development and \$28,000,000 for the Regency Apartments development. As a member of CSCDA, the City was required to approve the bond issuance since the projects are located within the City's jurisdiction.

HONORABLE MAYOR AND CITY COUNCIL

September 7, 2006, 2006

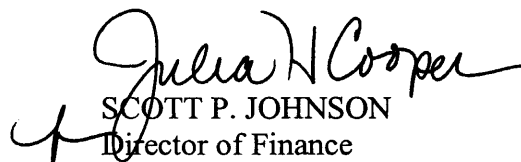
Subject: Report on Activities Undertaken by the Directors of Housing and Finance

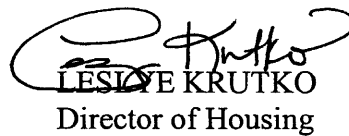
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Project Name	Units	Location	Bond Amount	Mayor's Certificate No.
Lexington Apartments	80	1350 to 1380 Lexington Drive San José	\$17,000,000	No. 2006-1 Adopted
Regency Apartments	143	1315 to 1317, 1355 to 1357, and 1403 to 1405 Eden Avenue, San José	\$28,000,000	No. 2006-2 Adopted

COORDINATION:

Preparation of this report has been coordinated with the City Attorney's Office.


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Director of Finance


LESLEYE KRUTKO
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